IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15/03/2004

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THE HON'BLE MR.JUSTICE P.D.DINAKARAN

W.P.No.29548 of 2003

K.Rasaiyya .. Petitioner

-Vs-

1. The State of Tamilnadu
rep. by the Secretary to the Government
Rural Development
Fort St.George
Chennai-9.

2. The Revenue Divisional Officer
Sivakasi
Virudhunagar District.

3. K.Ponnuthai

4. R.Indirani

5. S.Subburaj

6. Pushpavalli

7. V.Renga Muneeswaran

8. K.Thirumaran

9. S.Athinarayanan

10.M.Balraj .. Respondents

PRAYER: Petition under Article 226 of the Constitution of India for issue of a writ of Certiorari as stated therein.

For Petitioner : Mr.M.Ajmal Khan

For Respondents : Mr.P.Jayakumar
1 to 2 Government Advocate

For Respondents : Mr.R.Bharanidharan

3 to 10 for Mr.A.Jenasenan

:ORDER

By G.O.Ms.No.217, Rural Development (C1) Department, dated 10.10.200
3, the first respondent, exercising the powers conferred under Section 212(13) of the Tamilnadu Panchayats Act, 1994 (for brevity "the Act"), removed the petitioner from the post of the Chairman of the Panchayat Union Council, Vathiraiyurupu, Virudhunagar District, based on a no confidence motion held on 18.8.2003 at 3 p.m. Aggrieved by the same, the petitioner seeks a writ of Certiorari to call for the records relating to the notification issued by the first respondent in G.O.Ms.No.217, Rural Development (C1) Department, dated 10.10.2003 published in the Tamilnadu Gazette No.282, dated 10.10.2003 and quash the same, on the ground that the resolution dated 18.8.2003 passed by the second respondent, as well as the consequential notification issued by the first respondent in G.O.Ms.No.217, Rural Development (C1) Department, dated 10.10.2003, are violative of Section 212(13) of the Act, for want of support of not less than two-third of the sanctioned strength of the Village Panchayat.

2. Concededly, the Panchayat Union Council consists of thirteen members. Out of them only eight members attended the no confidence motion held on 18.8.2003, while two-third of the sanctioned strength of the Council requires nine members to validate the motion, as per Section 212(13) of the Act, which reads as follows:

"Section: 212 - Motion of no confidence in Chairman or Vice-Chairman of panchayat union council:-

(1) to (12) ...

(13) If the motion is carried with the support of not less than twothirds of the sanctioned strength of the panchayat union council, the Government shall, by notification, remove the Chairman or ViceChairman of the panchayat union council."

3. In view of the shortage of support of sanctioned strength of the panchayat union council, which met on 18.8.2003, whereunder the impugned no confidence motion was passed, based on which the impugned notification dated 10.10.2003 removing the petitioner from the post of Chairman of the Panchayat Union Council, Vathiraiyurupu, Virudhunagar District was passed, as apparent on the face of the records, I have no hesitation to interfere with the impugned notification dated 10.10.2003, as the same is contrary to Section 212(13) of the Act.

4. However, it is pointed out by Mr.R.Bharanidharan, learned counsel for the respondents 3 to 10 that majority of the strength of panchayat union council are against the petitioner holding the post of the Chairman, and therefore, the panchayat union council has become defunct.

5. Under such circumstances, suffice it to observe that if the Government is of the opinion that the petitioner willfully omits or refuses to carry out or disobeys the provisions of the Act, or any rules, by-laws, regulations or lawful orders issued thereunder or abuses the powers vested in him, they shall take appropriate action in the manner known to law under the provisions of the Act, taking note of the larger interest of the panchayat union council.

In the result, this writ petition is allowed with the above direction, and the impugned notification dated 10.10.2003 of the first respondent is quashed. No costs.

Index : Yes
Internet : Yes

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